



JUDGE KENNETH M. HOYT
UNITED STATES DISTRICT COURT
United States Courthouse
Courtroom No. 11A
515 Rusk, 11th Floor
(713) 250-5613

Myra Baird, Courtroom Deputy Clerk
United States District Clerk
P. O. Box 61010
Houston, Texas 77208
(713) 250-5515

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I. CONTACT WITH JUDGE/LAW CLERK/COURTROOM DEPUTY CLERK

- A. Case-related telephone inquiries should be made only to the Courtroom Deputy Clerk.
- B. At the Court's direction, law clerks may contact counsel; however, they will not discuss matters other than the subject of the call.
- C. The caseload will not allow the Courtroom Deputy Clerk to respond to casual telephone inquiries regarding motions and case status generally. Information regarding the filing of documents, entry of orders, or docket entries may be obtained by contacting the docket clerk at (713) 250-5115.

Counsel shall refrain from seeking information that may be obtained by reviewing the Docket Control Order, Local Rules or Federal Rules.

- D. All correspondence regarding cases pending before Judge Hoyt must be addressed to:

**United States District Clerk
P. O. Box 61010
Houston, TX 77208**

Do not address substantive issues of law in letter form to the Court as they are not docketed and included in the appellate record. **Copies** of urgent letters or briefs may be sent to chambers.

II. EMERGENCY MATTERS

- A. Applications for restraining orders or for other immediate relief shall be made through the Office of the Clerk. Counsel shall contact the Courtroom Deputy Clerk on matters requiring immediate attention by this Court through the Intake Section at the U.S. District Clerk's Office, 515 Rusk, 1st Floor, Houston, Texas (713) 250-5525. Ex parte applications for restraining orders will not be entertained by the Court unless the requirements of Fed. R. Civ. P. 65(b) have been satisfied.
- B. Motions for extension of filing deadlines or cut-off dates are **not emergencies**.

III. APPEARANCES AT SETTINGS

- A. Counsel will be punctual in attendance at all appearances before the Court.
- B. The attorney designated as "in charge" or an attorney familiar with the case **who has authority to make decisions binding on the party represented** must appear at all conferences and hearing, and at trial. Conferences and hearings are held in Courtroom 11A. Conferences may be held by phone at the Court's discretion.
- C. Counsel will notify the Courtroom Deputy Clerk **immediately** if any matter with a conference or hearing setting is resolves.

IV. PRETRIAL CONFERENCES

A scheduling conference is set at the time the case is filed. Counsel may shorten the time frame by agreement of the parties.

- A. Counsel shall prepare and file not less than 10 days before the conference, a joint discovery/case management plan for the conference containing the information called for on the attached form, as required by Rule 26(f).
- B. The Court will enter a scheduling order and may rule on any pending motions during the conference. (The conference may be by telephone.)
- C. Counsel who file or remove an action must serve a copy of the order for conference with the summons and complaint or with the notice of removal.
- D. Attendance or participation by an attorney who has authority to bind the party is required during the conference.
- E. Counsel shall discuss with their clients and each other whether alternative dispute resolution is appropriate and at the conference advise the Court of the results of their discussions.

V. MOTION PRACTICE

The Court is of the opinion that most discovery disputes, especially those dealing with (1) scheduling, (2) the number, length, and form of oral and written questions, (3) the responsiveness of answers to oral and written questions, and (4) the mechanics of document productions, including protective orders and the proper method of raising claims of privilege, can be resolved by counsel without the intervention of the Court.

In order to curtail undue delay in the administration of justice, the Court will not hear discovery motions unless moving counsel advises the Court, in the motion, that counsel have conferred in a good faith effort to resolve the matters in dispute but are unable to reach an agreement. The statement shall recite the date, time, and place of such conference and the names of all parties participating. If counsel has been unable to confer because of the unavailability or unwillingness of opposing counsel to do so, the statement shall state the attempts to confer.

- A. The Court follows the written motion practice outlined in the local rules. The motion and response will be submitted to the judge after the submission date. (For time frame on response to a motion refer to Local Rules.) **Discovery motions are handled on an expedited basis.**
- B. The submission date may be extended by agreement of counsel except when the extension violates a court-imposed deadline. Counsel are to notify the Courtroom Deputy Clerk in writing, of an agreement and submit an appropriate order.
- C. Requests for oral arguments are not necessary. The Courtroom Deputy Clerk will notify counsel should the Court determine that oral argument would be beneficial.
- D. Counsel are to ensure that all exhibits referred to in their briefs are in the record.
- E. The Court will rule on motions as soon as possible. Counsel will be furnished with

copies of the orders.

- F. The Court will not allow withdrawal of any attorney in charge without designation of substitute counsel.

VI. BRIEFS

- A. The Court requires concise, pertinent and well organized briefs and memoranda of law. Without leave of Court any brief or memorandum shall be limited to 25 pages. Any brief or memorandum that has more than 10 pages of argument must contain the outline below. All briefs and memoranda must contain items (3), (4), (6) and (7).
 - (1) A table of contents setting forth the page number of each section, including all headings designated in the body of the brief or memorandum.
 - (2) A table of citations of cases, statutes, rules, textbooks and other authorities, alphabetically arranged.
 - (3) A short statement of the nature and stage of the proceeding.
 - (4) A statement of the issues to be ruled upon by the Court and with respect to each issue a short statement, supported by authority, of the standard of review.
 - (5) A short summary of the argument.
 - (6) The argument shall be divided under appropriate headings succinctly setting forth separate points.
 - (7) A short conclusion stating the precise relief sought.
- B. Any brief, memorandum or motion that cites authorities not found in the United States Code, United States Supreme Court Reporter, Federal Reporter, Federal Rules Decisions, Federal Supplement, Southwestern Reporter Second or Vernon's Revised Statutes and Codes Annotated should have appended the relevant parts of such authorities (other than cases), and complete copies of cases. Copies of any affidavits, deposition testimony, or other discovery referred to should also be contained in the appendix. All appendices should contain a paginated table of contents, and should be tabbed for easy location of the materials contained.

VII. TRIAL SETTINGS

- A. Docket Control Orders
 - 1. Docket control orders will be entered at the time of the scheduling conference.
 - 2. Counsel shall comply with the docket control order unless relieved from its terms by court order following motion and a showing of good cause.
 - 3. The Court may impose sanctions against any party who fails to obey a

docket control order.

4. The Court maintains a trailing docket, from which a case is subject to trial on short notice. No new docket call date is set.

B. Docket Call

1. The docket control order establishes the date and time for the call of the docket. Cases will be called in numerical sequence and tried as soon as possible without regard for subsequent dockets. Cases not reached are carried over and called for trial as soon as the Court's docket permits.
2. Personal appearance by counsel is required at docket call unless arrangements are made for an announcement of "ready" by other counsel in the case.
3. Counsel shall refrain from contacting the Courtroom Deputy Clerk prior to docket call regarding placement of a case on the docket. Counsel in the first two cases to be tried immediately following docket call will be notified in advance.
4. Counsel shall notify the Courtroom Deputy Clerk **by letter** of prior commitments (vacations paid in advance, preferential trial settings in other courts, etc.) during the trial period.

C. Continuances

1. Stipulations or joint motions for continuance are **NOT** binding on the Court and will be granted only in the Court's discretion.
2. Where counsel have **NOT** been advised of a ruling on a motion for continuance, personal appearance is required at docket call.
3. A trial will **NOT** be continued because of the unavailability of an expert or medical witness. Counsel are to anticipate such a possibility and present testimony by deposition or stipulation.

VIII. REQUIRED PRETRIAL MATERIALS

A. Joint Pretrial Order

1. Counsel for the **plaintiff** is responsible for insuring that a Joint Pretrial Order is filed **timely** in the form prescribed.
2. No Joint Pretrial Order will be approved by this Court, unless it is signed by **ALL** parties.

B. Other Required Documents

Each party must also file the following documents. These documents will be in the captioned form, and signed by counsel.

Jury Trials

- (a) Proposed questions for voir dire examination of the jury panel.
- (b) Proposed jury instructions and/or definitions. (Jury Charge) Each requested instruction must be numbered and presented on a separate sheet of paper with a citation of authority upon which counsel rely.
- (c) Proposed interrogatories.
- (d) Memorandum of law.
- (e) Motion in limine. (Should not be filed except as a part of the joint pretrial order.)

Non-Jury Trials

- (a) Proposed findings of fact and conclusions of law.
- (b) Memorandum of law.

In complex litigation, these documents must be filed **jointly** and included in the Joint Pretrial Order. Where there is a dispute concerning one or more voir dire question, instruction, interrogatory, findings of fact, conclusions of law, or legal argument, the opposition, with supporting citations or authorities, shall be stated on the same page as the proposition.

In other litigation, the parties may file the above documents separately, but no later than the date on which the Joint Pretrial order is due. Also, each document must contain a certificate of service.

IX. COURTROOM PROCEDURES

A. Hours

Court will normally convene at 9:00 a.m. and adjourn at 5:30 p.m., recessing for lunch between 12:00 noon and 1:30 p.m. The Court's hours during trial may vary depending upon the type of case and the needs of the parties, counsel and the Court.

B. Telephones

Telephone messages will **NOT** be taken by the Judge's staff and counsel shall refrain from requesting use of telephones in chambers. Public telephones are available near the elevators.

C. Filing of Documents

Documents submitted for filing immediately prior to and during the course of a trial will be submitted to the Courtroom Deputy Clerk **in duplicate**.

D. Decorum

1. Counsel and parties will comply with Appendix C of the Local Rules regarding Courtroom behavior. These procedures are *STRICTLY ENFORCED*.
2. Additionally, counsel will ensure that all parties and witnesses refrain from eating, chewing gum, or reading newspapers, books, etc. in the courtroom. Cellular phones and beepers are to be turned *OFF* prior to entering the Courtroom.
3. Attorneys are to stand when addressing the Court, and when the Court addresses the attorney.

E. Witnesses

1. Counsel are responsible for summoning witnesses into the courtroom and instructing them on courtroom decorum. Witnesses will be interrogated while the attorney is standing at the podium. Permission to approach a witness must first be obtained from the Court.
2. Counsel shall make every effort to elicit from the witnesses only information relevant to the issues in the case and avoid cumulative testimony.
3. Counsel should bear in mind the Court's hours and arrange for witnesses accordingly. The Court will not recess to permit counsel to call a missing witness unless he/she has been subpoenaed and has failed to appear.

F. Expert Witnesses and Doctors

Counsel should notify doctors and expert witnesses well ahead of the date of trial so that depositions may be taken if they will not be available. Qualification of expert witnesses shall be by stipulation where and when possible. Any dispute shall be brought to the Court's attention when it arises.

G. Jury Voir Dire

The Court will conduct voir dire.

H. Exhibits

1. All exhibits must be marked and exchanged among counsel **prior** to trial. The offering party will mark his own exhibits **including** the case number on each document to be offered.
2. Any counsel requiring authentication of an exhibit must so notify offering

counsel in writing within five (5) days after the exhibit is made available to opposing counsel for examination. **FAILURE TO DO SO** is an ADMISSION of authenticity.

3. All exhibits will be OFFERED and ADMITTED into evidence as the FIRST ITEM OF BUSINESS at trial where no objection is lodged at least three (3) days before trial. See Local Rule 11.
4. Counsel will not distribute exhibits to the jury during trial. All exhibits admitted during trial will go to the jury during its deliberations or at the end of each day with Court permission.
5. Counsel is required to provide the Court with the original and a copy of the exhibits prior to trial in properly tabbed notebook form.
6. Counsel should become familiar with Local Rule 11c regarding disposition of exhibits following trial.

I. Depositions

1. If a portion of any deposition is to be read, counsel will designate such by citing pages and lines as required by the Joint Pretrial Order. Opposing counsel will file objections to such portions (citing pages and lines) with supporting authority before the day of trial. The Court will rule on the objections as soon as possible. Use of video depositions is permitted if counsel edit to resolve objections.
2. In the event of a **bench trial**, the portions of the deposition offered shall not be read but simply offered for admission.

J. Equipment

1. Counsel are responsible for providing sound or video equipment. Prior permission must be obtained from the Courtroom Deputy Clerk so that arrangements may be made with building security.
2. Easels with writing pads are available for use in the courtroom.

X. SETTLEMENTS AND ORDERS OF DISMISSAL

A. Settlements

1. Upon the settlement of any case set for conference, hearing or trial, it shall be the duty of counsel to notify the Courtroom Deputy Clerk immediately. Failure to notify the clerk may result in the imposition of sanctions.
2. Thereafter, the Court will enter an **Order of Dismissal** without prejudice to the right of any party to move for reinstatement within 90 days upon presentation of adequate proof that final approval could not be obtained from the respective principals for whom counsel act. Counsel will promptly submit the agreed final judgment for Court approval.

3. Upon settlement of a suit involving a minor, counsel will jointly move for appointment of an **attorney ad litem** where there is potential conflict of interest between the parent(s) and the minor. The parties may agree upon an **attorney ad litem**. Contemporaneously with the motion for appointment, counsel will notify the Courtroom Deputy Clerk by letter requesting a settlement conference.
4. Prior to the conference, counsel will furnish the Court a copy of the proposed final judgment and any additional information that counsel feel might be helpful to the Court in approving the settlement. Any motion by the **attorney ad litem** requesting that funds be placed in the registry of the Court must be filed prior to the conference and approved by the Finance Section of the Clerk's Office.
5. All counsel and parties-plaintiff must attend the conference unless excused for good cause shown.

B. Orders of Dismissal

1. Agreed orders of dismissal will be approved routinely by the Court.
2. Any defendant upon whom service has not been perfected within 120 days after filing of the complaint is entitled to a *sua sponte* dismissal for want of prosecution in accordance with Rule 4(j), Fed. R. Civ. P.

XI. REQUIRED CONTENTS OF THE JOINT PRETRIAL ORDER

1. **Appearance of Counsel.** List each party, its counsel, and counsel's address and telephone number in separate paragraphs.
2. **Statement of the Case.** Give a brief statement of the case, one that the judge could read to the jury panel for an introduction to the facts and parties; include names, dates, and places.
3. **Jurisdiction.** Briefly specify the jurisdiction of the subject matter and the parties. If there is an unresolved jurisdictional question, state it.
4. **Motions.** List pending motions.
5. **Contentions of the Parties.** State concisely in separate paragraphs each party's claims.
6. **Admissions of Fact.** List all facts that require no proof.
7. **Contested Issues of Fact.** List all material facts in bona fide controversy.
8. **Agreed Propositions of Law.** List the legal propositions that are not in dispute.
9. **Contested Propositions of Law.** State briefly the unresolved questions of law, with authorities to support each.
10. **Exhibits.**

- A. On a form similar to the one provided by the Clerk, each party will attach two lists of all exhibits expected to be offered and make the exhibits available for examination by opposing counsel. All documentary exhibits must be exchanged before trial, except for rebuttal exhibits.
- B. Within reason, other objections to admissibility of exhibits must be made at least three business days before trial, the Court will be notified in writing of disputes, with copies of the disputed exhibit and authority.
- C. Parties must mark their exhibits to include the exhibit number and case number on each.

11. **Witnesses.**

- A. List the names and addresses who may be called. With experts, a brief statement of the nature of their testimony and their qualifications is required.
- B. Include:

In the event there are any other witnesses to be called at the trial, their names, addresses and the subject matter of their testimony shall be reported to opposing counsel as soon as they are known. This restriction shall not apply to rebuttal or impeachment witnesses, the necessity of whose testimony cannot reasonably be anticipated before the time of trial.

- 12. **Trial.** State probable length of trial and logistical problems, including availability of witnesses, out-of-state people, bulky exhibits, and demonstrations.

United States District Judge

Date

APPROVED:

Attorney-in-Charge, Plaintiff

Date

Attorney-in-Charge, Defendant

Date

**OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

For Information Regarding The Following:	Call
Admission of Attorneys	713 250-5489
Appeals	713 250-5529
Bail Bonds, Disbursement	713 250-5546
Bill of Costs	713 250-5525
Civil Docket Coordination Center	713 250-5786 713 250-5787 713 250-5788
Clerical Assistants to U.S. Magistrate Judges	
Magistrate Calvin Botley	713 250-5535
Magistrate Frances Stacy	713 250-5565
Magistrate Nancy Johnson	713 250-5534
Magistrate Marcia Crone	713 250-5566
Magistrate Mary Milloy	713 250-5158
Closed Cases (Civil)	713 250-5543
Copy Requests	713 236-0903
Court Reporters	713 250-5499
Courtroom Deputies to District Judges	
Judge Lynn N. Hughes	713 250-5516
Judge David Hittner	713 250-5511
Judge Kenneth M. Hoyt	713 250-5515
Judge Sim Lake	713 250-5514
Judge Melinda Harmon	713 250-5518
Judge John D. Rainey	713 250-5377
Judge Ewing Werlein	713 250-5533
Judge Lee H. Rosenthal	713 250-5517
Judge Vanessa Gilmore	713 250-5931
Judge Nancy Atlas	713 250-5990
Criminal Cases (Open & Closed)	713 250-5524
Exhibit Retrieval	713 250-5201
File Room	713 250-5543

DIRECTORY CONTINUED

Financial Section	713 250-5414
Interpreters	713 250-5667
Jury	713 250-5528
Local Rules	713 250-5525
Magistrates (See Clerical Assistants)	
Monition	713 250-5525
Naturalization	713 250-5553
Prisoner Related Cases	713 250-5402
Registry Funds	713 250-5776
Service of Papers	713 250-5525
Statistical Information	713 250-5436
Summons	713 250-5525
Transcripts	713 250-5522
Warrant of Seizure	713 250-5525